

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 2256 of 1985
Date of decision: 31.1.2007

Bhagwant Singh

...Petitioner

Versus

Union of India and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL

Present: Mr. Onkar Rai, Advocate,
for the petitioner.

Mr. Rajbir Singh Sihag, Advocate, for
the respondents.

K.S.GAREWAL, J.

Bhagwant Singh filed this petition under Articles 226/227 of the Constitution of India to challenge the proceedings under the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

The case related to land measuring 1K-10M in Nakodar. According to the petitioner, he was in possession of this property and on half of the plot he had raised some construction in which he lived. The property was part of a package deal announced by the Government of Punjab and was transferable in favour of the petitioner. The Settlement Commissioner had fixed its reserve price at Rs. 36,000/-. The Department

put the property to public auction which was held by the Tehsildar (Sales) on September 22, 1982. The petitioner gave the highest bid of Rs. 37,000/- and in pursuance thereof deposited the earnest money. Later, during confirmation of the sale in favour of the petitioner, it came to light that this very land had been put to auction earlier on September 5, 1969 and stood sold to Dalip Singh (respondent 4) for Rs. 900/-. That auction had been conducted by the Assistant Settlement Officer-cum-Managing Officer and confirmed by the Regional Settlement Commissioner on September 9, 1969.

According to the learned counsel for the petitioner, all urban evacuee land, including the plot in question, stood transferred to the State Government on March 23, 1963 under the package deal. Detailed terms and conditions had been mentioned in the communication from the Chief Settlement Commissioner dated March 23, 1963 (Annexure P/1).

The orders which have been impugned in this petition were orders passed by the Chief Settlement Commissioner Punjab on a suo moto reference made under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. This order was passed on a reference made by the State for setting aside the sale of the property in question to Dalip Singh on September 9, 1969. The reference was rejected on December 4, 1974. The sole ground was that the reserve price of the plot had not been properly fixed. The Chief Settlement Commissioner had concluded that in every case reserve price was required to be fixed, a bid below that price was liable to be cancelled. However, the confirmation of bid below the reserve price could be done for reasons to be recorded. This had not been done in the present case but no fault could be ascribed to the auction- purchaser and he could not be penalised for the lapse of the Department, particularly after

passage of nearly five years.

An appeal was filed before Central Government (powers exercised by the Financial Commissioner, Punjab) under the provisions of Section 33 of the said Act. The learned Financial Commissioner on January 15, 1985 concluded as under:-

“The sale could be set aside under Rule 92 only on the ground that any material irregularity or fraud had been committed in the publication of conduct of the sale which has resulted in a substantial injury to any person. The only irregularity or fraud had been committed in the case is that the bid below reserve price was accepted. It is not shown that it has caused substantial injury to any person. The Chief Settlement Commissioner could, of course, under Section 24(1) of the Act set aside the sale if the order confirming it was illegal. In the absence of a specific provision in the Rules prohibiting the confirmation of sale below the reserve price, it cannot be held that the order of the Regional Settlement Commissioner confirming the sale was illegal. It is true that as urged by Shri Kohli a second attempt should have been made to re-auction the land and the bid below the reserve price should not have been confirmed on the first sale. However, it will not be correct to set aside the sale after more than 15 years on this ground. As pointed out by the counsel for respondent No.1 there has been long delays on the part of the department. A reference for setting aside the sale was made only on 24-7-1971 i.e. 5 years after confirmation of the sale and the present suo-moto

reference has again been made after about 9 years of the order passed by the Chief Settlement Commissioner. It is, therefore, not a fit case to exercise powers under Section 33 of the Act.”

The learned counsel for the petitioner has submitted that there was no limitation prescribed under the Act for exercising suo-moto powers and Chief Settlement Commissioner had no authority to deal the property acquired under the package deal.

In order to succeed the petitioner would have to first establish that the land in question was covered by the so-called package deal detailed in communication dated March 23, 1963 (Annexure P-1). This letter conveys the sanction of the President to the sale of the remaining agricultural land in Punjab to the State Government for Rs. 18,18,950/- to be paid by the Punjab Government in lump sum in 1963. Furthermore, acquired evacuee agricultural land which had also been sold by auction or allotment by the Regional Settlement Commissioner but in respect of which sales/transfers might be cancelled in future on account of the failure of the purchaser to pay the balance purchase price would also be transferred to Punjab Government at the above mentioned rates.

It is easy for the petitioner to assert that the plot in question was acquired evacuee agricultural land but how does the petitioner established that the plot in question was covered by the package deal mentioned in Annexure P-1. These grounds were never urged by the petitioner before the Financial Commissioner when the order under Section 33 was passed. In those proceedings all that argued was that the sale by auction to Dalip Singh was not in accordance with Rule 90(5) of the Displaced Persons (Compensation and Rehabilitation) Rules 1955. This Rule required that

every auction of a property shall be subject to a reserve price. In the present case the reserve price was Rs.1500/- but the highest bid was Rs.900/-. This bid by Dalip Singh was accepted. The ground which the petitioner has sought to raise was available to the petitioner when he appeared before the Financial Commissioner but he failed to argue this point. Furthermore, the petitioner did not place on record any documentary proof regarding the purchase by him of the plot for Rs.37,000/- in the auction held on September 22, 1982.

The sale in favour of Dalip Singh was final and binding and had been held to be so by the Chief Settlement Commissioner and the Central Government. This petition is without merit and is hereby dismissed.

(K.S.GAREWAL)
JUDGE

January 31, 2007.
Prem/RSK